

High Level Conference

**The Reform of the Public Prosecution Service of Ukraine:
Achieved Progress and Next Steps**

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Madame Prosecutor General,

Your Excellencies,

Esteemed Judges, Prosecutors, Distinguished Guests,

I am delighted and honoured to deliver this keynote speech on behalf of the Council of Europe.

The reform of the prosecution service remains one of the accession commitments of your country, Ukraine, before the Council of Europe. Over the recent years, the Ukrainian authorities have taken considerable steps towards the fulfilment of this goal. At the same time, challenges still remain to be addressed on the way towards the accomplishment of the reform.

A comprehensive full-scale reform requires a comprehensive and long-term approach on a sustainable basis.

This requires, *inter alia*, a sustained strategic vision and political will, thorough preparations, – including in-depth professional dialogue within the prosecution service and other justice sector stakeholders – and a solid implementation plan. It also, of course, requires reliable financial resources.

In parallel, and this should not be underestimated, it requires public debate. Information about the need for reform, its benefits and challenges, as well as progress made, must reach the public at large. It is the people of Ukraine who, in the end, are the final beneficiaries of the reform.

The reform under way aims to address many different and difficult issues at once. This includes the lack of independence of the prosecution service, political interference into its activity and the insufficient effectiveness of criminal investigations. These problematic issues have all been raised in a number of judgments of the Strasbourg Court. In addition, corruption risks and lack of public trust in the prosecution service also need to be addressed. On all these aspects, the reform's progress is under the watchful eye of the international community and, significantly, Ukrainian civil society.

In this context I would like to refer to several directions of the reform in the light of their importance from the perspective of the Council of Europe.

First, let me address independence and accountability. Secondly, let me address professionalism, integrity, and public trust.

On independence and accountability, allow me to cite the Opinion of the Consultative Council of European Prosecutors (CCPE) No. 13(2018) on «*Independence, accountability and ethics of prosecutors*». It reads as follows: “Independence” means that prosecutors are free from unlawful interference in the exercise of their duties to ensure full respect for and application of the law and the principle of the rule of law and that they are not subjected to any political pressure or unlawful influence of any kind [...]

In order to promote public confidence, prosecutors must be independent but also feel accountable. [...] The accountability of prosecutors is not meant to interfere with their independence. Although independent, prosecutors are accountable, in cases and the manner provided for in national laws: ... they should report, as appropriate,... they are subject, where appropriate, to disciplinary proceedings which must be based on a law,... the proceedings should be transparent, apply established criteria and be held before a body which is independent from the executive; concerned prosecutors should be heard and allowed to defend themselves with the help of their advisers, be protected from any political influence, and have the possibility to exercise the right of appeal before a court; any sanction must also be necessary, adequate and proportionate to the disciplinary offence.”

Ensuring the independence of the prosecution service is amongst the essential issues arising from the European Court’s judgments against Ukraine, *i.e. Tymoshenko, Lutsenko v. Ukraine*, as well as various recommendations of the Council of Europe bodies, namely the Venice Commission and the GRECO, Group of States against Corruption.

When we look at how these issues have developed in Ukraine, it is safe to say that a fundamental milestone was achieved in 2014 with the Law on the Prosecution Service of Ukraine. With this, guarantees to secure the independence of the prosecution service, the corresponding institutional framework and necessary procedures were defined. Now is the time to put this significant milestone into practice. This concerns both the institutional independence of the prosecution service and the procedural autonomy of individual prosecutors.

In this respect, I would like to underline the importance of reviving and further empowering the prosecutorial institutions in charge of qualification and disciplinary accountability, as well as the prosecutorial self-governance bodies. It is critical that all necessary practical measures are taken in a timely and effective manner to enable these bodies to become fully operational in line with the requirements of the legislation. Both bodies, the Council of Prosecutors and the Body in Charge of the Disciplinary Accountability of Prosecutors, have a crucial role in securing prosecutorial independence and effectiveness of their work.

I would also like to address the aspects of professionalism, integrity, and public trust. I again start by a quotation, now from the CCPE Opinion No.9 (2014), called the Rome Charter: “The highest level of professional skills and integrity is a pre-requisite for an effective prosecution service and for public trust in that service. This is then elaborated further in the CCPE Opinion No.13 (2018), already mentioned before, which says: “the respect for the rule of law requires the highest ethical and professional standards in behaviour of prosecutors, as for judges, both on duty and off, which allows confidence in justice by society.” Quotation closed.

In short, distinguished participants, as we all know so well in our daily lives, and you know intimately in your line of work: “justice must not only be done; it must also be seen to be done”. This is equally relevant for the behaviour of prosecutors in our societies, in their relations with the media or other public officials, and in the processing of cases. Prosecutors are expected to act in a proactive manner and provide information to the public, in particularly in cases of public attention and concern.

In this respect, the steps undertaken to reform the prosecutorial training institution are welcomed; some specific processes are under way that merit further dedication in order to be accomplished. To name a few: Putting the Code of Ethics of Prosecutors into practice is of crucial importance; the finalisation of the preparation of clear merit based, fair and transparent performance evaluation system for prosecutors is vital; the enhancement of both internal and external communication is expedient.

Ladies and Gentlemen,

The Council of Europe acknowledges that the Ukrainian authorities have taken considerable steps in implementing the lines of the reform I referred to before. Some are completed and some are in progress while, yet others require further advancement.

The varied initiatives put in place since the autumn of 2019, which were of ad-hoc transitional nature, are considered accomplished. Further steps forward are envisaged, which should be in line with Council of Europe standards and best practices.

On this note I would like to emphasize the importance of a strategic vision for the reform implementation. The adoption of the Strategy for the public prosecution service of Ukraine for 2021-2023 and its Action Plan is a welcomed development in this regard. The ongoing work on the draft law enforcement and criminal justice strategy is also supported. It is important to have it done in coordination with the competent authorities and relevant stakeholders, in an inclusive and participatory manner.

It is crucial that the Ukrainian authorities continue to demonstrate political will and take effective measures to ensure the sustainability of the reform's effect. The transparency of the reform process and the involvement of civil society are also vital to its success. A precondition for achieving the ultimate goal is that all involved at all levels are committed to performing their duties genuinely in accordance with the law and in the spirit of the reform.

Last but not least, I am proud to emphasize the role played by the Council of Europe in the Ukrainian public prosecution service reform process. I would like to underline that the reforms in criminal justice sector in Ukraine remain among the clear priorities for the Council of Europe's cooperation in Ukraine.

Ladies and Gentlemen,

To conclude, let me express my gratitude to all national stakeholders, starting with the Ukrainian authorities, all of you here present, as well as non-governmental and international counterparts, for their cooperation, synergies and firm commitment to our joint initiatives aimed at improving the human rights situation and strengthening the rule of law in Ukraine.

I thank our long-term partner and co-organiser of this Conference, the Office of the Prosecutor General of Ukraine, for the collaboration in the organisation of this important event.

I look forward to our further joint endeavours in the near future and wish all a successful Conference.

Thank you!